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HOUSE BILL 531

49TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2009

INTRODUCED BY

Jose A. Campos

AN ACT

RELATING TO LAW ENFORCEMENT; ADDING CERTIFIED PART-TIME
SALARIED POLICE OFFICERS TO THE DEFINITION OF LAW ENFORCEMENT
OFFICER IN THE CRIMINAL PROCEDURE ACT AND TORT CLAIMS ACT.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 31-1-2 NMSA 1978 (being Laws 1972,
Chapter 71, Section 5, as amended) is amended to read:

"31-1-2. DEFINITIONS.--Unless a specific meaning is
given, as used in the Criminal Procedure Act:

A. "accused" means any person charged with the
violation of any law of this state imposing a criminal penalty;

B. "bail bond" is a contract between surety and the
state to the effect that the accused and the surety will appear
in court when required and will comply with all conditions of
the bond;

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underscored material = new
~~[bracketed material] = delete~~

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1 C. "defendant" means any person accused of a
2 violation of any law of this state imposing a criminal penalty;

3 D. "felony" means any crime so designated by law or
4 if upon conviction thereof a sentence of death or of
5 imprisonment for a term of one year or more is authorized;

6 E. "person", unless a contrary intention appears,
7 means any individual, estate, trust, receiver, cooperative
8 association, club, corporation, company, firm, partnership,
9 joint venture, syndicate or other entity;

10 F. "police officer", "law enforcement officer",
11 "peace officer" or "officer" means any full-time salaried or
12 certified part-time salaried officer who by virtue of [~~his~~]
13 office or public employment is vested by law with the duty to
14 maintain the public peace;

15 G. "recognizance" means any obligation of record
16 entered into before a court requiring the accused to appear at
17 all appropriate times or forfeit any bail and be subject
18 [~~himself~~] to criminal penalty for failure to appear;

19 H. "release on personal recognizance" or "release
20 on own recognizance" means the release of a defendant without
21 bail, bail bond or sureties upon [~~his~~] the defendant's promise
22 to appear at all appropriate times;

23 I. "rules of civil procedure" means rules of civil
24 procedure for the district courts of the state of New Mexico,
25 as may be amended from time to time;

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1 J. "rules of criminal procedure" means rules of
2 criminal procedure for the district courts, magistrate courts
3 and municipal courts adopted by the New Mexico supreme court,
4 as may be amended from time to time;

5 K. "misdemeanor" means any offense for which the
6 authorized penalty upon conviction is imprisonment in excess of
7 six months but less than one year; and

8 L. "petty misdemeanor" means any offense so
9 designated by law or if upon conviction a sentence of
10 imprisonment for six months or less is authorized."

11 Section 2. Section 41-4-3 NMSA 1978 (being Laws 1976,
12 Chapter 58, Section 3, as amended) is amended to read:

13 "41-4-3. DEFINITIONS.--As used in the Tort Claims Act:

14 A. "board" means the risk management advisory
15 board;

16 B. "governmental entity" means the state or any
17 local public body as defined in Subsections C and H of this
18 section;

19 C. "local public body" means all political
20 subdivisions of the state and their agencies, instrumentalities
21 and institutions and all water and natural gas associations
22 organized pursuant to Chapter 3, Article 28 NMSA 1978;

23 D. "law enforcement officer" means a full-time
24 salaried public employee of a governmental entity, or a
25 certified part-time salaried police officer employed by a

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1 governmental entity, whose principal duties under law are to
2 hold in custody any person accused of a criminal offense, to
3 maintain public order or to make arrests for crimes, or members
4 of the national guard when called to active duty by the
5 governor;

6 E. "maintenance" does not include:

7 (1) conduct involved in the issuance of a
8 permit, driver's license or other official authorization to use
9 the roads or highways of the state in a particular manner; or

10 (2) an activity or event relating to a public
11 building or public housing project that was not foreseeable;

12 F. "public employee" means an officer, employee or
13 servant of a governmental entity, excluding independent
14 contractors except for individuals defined in Paragraphs (7),
15 (8), (10) and (14) of this subsection, or of a corporation
16 organized pursuant to the Educational Assistance Act, the Small
17 Business Investment Act or the Mortgage Finance Authority Act
18 or a licensed health care provider, who has no medical
19 liability insurance, providing voluntary services as defined in
20 Paragraph (16) of this subsection and including:

21 (1) elected or appointed officials;

22 (2) law enforcement officers;

23 (3) persons acting on behalf or in service of
24 a governmental entity in any official capacity, whether with or
25 without compensation;

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1 (4) licensed foster parents providing care for
2 children in the custody of the human services department,
3 corrections department or department of health, but not
4 including foster parents certified by a licensed child
5 placement agency;

6 (5) members of state or local selection panels
7 established pursuant to the Adult Community Corrections Act;

8 (6) members of state or local selection panels
9 established pursuant to the Juvenile Community Corrections Act;

10 (7) licensed medical, psychological or dental
11 arts practitioners providing services to the corrections
12 department pursuant to contract;

13 (8) members of the board of directors of the
14 New Mexico medical insurance pool;

15 (9) individuals who are members of medical
16 review boards, committees or panels established by the
17 educational retirement board or the retirement board of the
18 public employees retirement association;

19 (10) licensed medical, psychological or dental
20 arts practitioners providing services to the children, youth
21 and families department pursuant to contract;

22 (11) members of the board of directors of the
23 New Mexico educational assistance foundation;

24 (12) members of the board of directors of the
25 New Mexico student loan guarantee corporation;

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1 (13) members of the New Mexico mortgage
2 finance authority;

3 (14) volunteers, employees and board members
4 of court-appointed special advocate programs;

5 (15) members of the board of directors of the
6 small business investment corporation; and

7 (16) health care providers licensed in New
8 Mexico who render voluntary health care services without
9 compensation in accordance with rules promulgated by the
10 secretary of health. The rules shall include requirements for
11 the types of locations at which the services are rendered, the
12 allowed scope of practice and measures to ensure quality of
13 care;

14 G. "scope of duty" means performing any duties that
15 a public employee is requested, required or authorized to
16 perform by the governmental entity, regardless of the time and
17 place of performance; and

18 H. "state" or "state agency" means the state of New
19 Mexico or any of its branches, agencies, departments, boards,
20 instrumentalities or institutions."